



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of : Len C. Kretchman et al
For : "Sealed Crustless Sandwich"
Serial No. : 90/005,949
Filed : March 9, 2001
Patent No. : 6,004,596
Examiner : George C. Yeung
Group Art Unit : 1761
Our Docket No. : SMA-12271 RX

DECLARATION OF STEVEN T. OAKLAND

Assistant Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

I, Steven T. Oakland, made the declarations dated March 5, 2001 and July 16, 2001 related to commercial aspects of the Uncrustables brand crustless sandwich sold by The J. M. Smucker Company (Smucker) and shown in Figures 3 and 4 of Kretchman 6,004,596. I confirm my knowledge of duties and responsibilities under 28 U.S.C. § 1001. I further declare.

1. The crustless sandwich is a food item which has not been advertised by Smucker other than a general amount.
2. It is my understanding that the Patent Office believes the success of the Uncrustables brand product may have been based upon:

- (a) heavy promotion
- (b) shift in advertising
- (c) consumption of jelly by Smucker
- (d) extraneous events.

3. None of the above factors account for the high sales in a short time of the Uncrustables brand product.

4. It is my experience children do not care about the items listed above when eating a crustless sandwich as disclosed in Kretchman 6,004,596. If it is not liked, it will not be purchased again. My experience and declaration facts address the concerns of the Patent Office. Millions of crustless sandwiches consumed primarily by children is not based upon any dominate fact, except they like the product. The price of the sandwich, does not change the acceptance by a child.

5. Smucker has committed a new line to make the Uncrustables brand crustless sandwich. This would not have been done without existing commercial success.

6. Since January 1, 2001, over 48 million Uncrustables brand sandwiches were sold.

Date:

2/28/02


STEVEN T. OAKLAND